

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
LAREDO DIVISION

RAMON GARZA AND
STEPHANY LOPEZ

V.

NARESH BAJARH AND HUNTER
EXPRESS, LTD.

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§

CIVIL ACTION NO. _____

JURY DEMANDED

NOTICE OF REMOVAL

TO THE HONORABLE UNITED STATES DISTRICT COURT:

Naresh Bajarh (hereinafter “Bajarh”), a defendant in the above-styled and numbered cause, hereby removes to the Court the state action described below pursuant to 28 U.S.C. §§ 1332, 1441 and 1446. In support of the removal and in accordance with the requirements of 28 U.S.C. § 1446 Bajarh states as follows:

1. Bajarh is a defendant in a civil action brought on July 28, 2017, in the 341st Judicial District Court of Webb County, Texas. The suit arises out of an automobile accident in Webb County. Pursuant to the provisions of 28 U.S.C. §§ 1441 and 1446, Bajarh removes this action to the United States District Court for the Southern District of Texas, Laredo Division, which is the judicial district and division in which the action is pending.

2. On July 28, 2017, a civil action was commenced, in the 341st Judicial District Court of Webb County, Texas, entitled *Ramon Garza and Stephany Lopez v. Naresh Bajarh and Hunter Express, Ltd.*; Cause No. 2017CVA001501D3. Plaintiffs’ Original Petition seeks personal injury damages based on allegations of negligence. A copy of Plaintiffs’ Original Petition is attached to the Civil Docket Sheet and State Court Documents Index.

3. On October 16, 2017, Bajarh was served with a copy of Plaintiffs' Original Petition, via the Hague Convention. The other named Defendant, Hunter Express, Ltd., has not been served and has not made an appearance. Bajarh filed his Original Answer on October 26, 2017.

4. Copies are attached to this notice as required by 28 U.S.C. §1446(a) and Local Rule 81 of the United States District Court, Southern District of Texas, as listed below:

- All executed process in this case;
- Pleadings asserting causes of action and all answers to such pleadings, including Plaintiff's Original Petition and Bajarh's Original Answer;
- All orders signed by the state judge;
- Clerk's Docket Sheet from Cause No. 2017CVA001501D3 styled *Ramon Garza and Stephany Lopez v. Naresh Bajarh and Hunter Express, Ltd.*, pending in Webb County, 341st Judicial District Court;
- An Index of Matters Being Filed with this Notice of Removal;
- A List of Counsel of Record, including addresses, telephone numbers, and parties represented; and
- Civil Cover Sheet.

JURISDICTION AND VENUE

5. The action is a civil action of which this Court has original jurisdiction under Title 28 U.S.C. § 1332(a)(1) (Diversity Jurisdiction), and is one which may be removed to this Court pursuant to Title 28 U.S.C. § 1441. There is complete diversity of citizenship amongst the parties and the amount in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs.

6. Plaintiffs are citizens of Texas residing in Webb County, Texas. See Plaintiffs' Original Petition at ¶1.2.

7. Bajarh is an individual who resides in Ontario, Canada. See Plaintiffs' Original Petition at ¶ 1.4. The other named Defendant, Hunter Express, Ltd., which has not been served, is a Canadian Corporation with its principal place of business in Ontario, Canada. See *Id.* at ¶ 1.3.

8. Venue is proper in the Southern District of Texas, Laredo Division, because this district and division embrace the place in which the action is pending. See 28 U.S.C. § 1441(a).

9. The amount in controversy exceeds the sum of Seventy-Five Thousand and 00/Dollars (\$75,000.00), exclusive of interest and costs, as evidenced by the attached copy of the Civil Case Information Sheet wherein counsel for Plaintiff states that the damages sought in this cause of action are "more than two hundred thousand and less than one million dollars." See Plaintiffs' Original Petition at ¶ 8.2. Plaintiffs alleges injuries and damages arising from an incident which occurred on or about July 27, 2015, in Webb County, Texas.

10. Bajarh was served on October 16, 2017. Hunter Express, Ltd., has not been served. This Notice of Removal is being filed on October 27, 2017. Accordingly, this Notice of Removal is timely filed within 30 days of when Bajarh received Plaintiffs' Original Petition and within one year of the commencement of this suit. See 28 U.S.C. § 1446(b).

11. The consent to remove by Hunter Express, Ltd., is not required because it has not been served and it has not made an appearance.

12. Additionally, this Court would have original subject matter jurisdiction of this action under the provisions of 28 U.S.C. § 1332 if the action had originally been brought in federal court. Accordingly, Bajarh may properly remove the State Court action pursuant to 28 U.S.C. § 1441.

13. Bajarh will promptly file a copy of this notice of removal with the clerk of the state court where the suit has been pending and served on Plaintiffs promptly.

14. Plaintiffs have demanded a jury trial in the state court suit. Bajarh requests a jury trial.

15. The filing of this notice, along with the filing of the notice in the state court and service of the notice upon Plaintiffs' counsel, serves immediately to confer exclusive jurisdiction of this cause upon this Court, and divests the state court of all jurisdiction over these proceedings and claims.

PRAYER

16. WHEREFORE, PREMISES CONSIDERED, Bajarh prays that the above-styled action now pending in the 341st Judicial District Court of Webb County, Texas, be removed to this Honorable Court pursuant to the Court's diversity jurisdiction, that upon final trial, judgment be rendered that Plaintiffs take nothing by their suit against Bajarh and for such other and further relief to which he may be justly entitled.

Respectfully submitted,

By: /s/ Priscilla Y. Chapa
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ATTORNEY-IN-CHARGE FOR
DEFENDANT, NARESH BAJARH

OF COUNSEL:
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361-883-1594
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CERTIFICATE OF SERVICE

I, Priscilla Y. Chapa, do hereby certify that a true and correct copy of the foregoing instrument was forwarded in accordance with the Federal Rules of Civil Procedure on this the 27th day of October, 2017, to the following:

Via Electronic Service

Mr. Brett T. Reynolds
BRETT REYNOLDS & ASSOCIATES, P.C.
1250 N.E. Loop 410, Suite 420
San Antonio, Texas 78209

ATTORNEYS FOR PLAINTIFFS

/s/ Priscilla Y. Chapa
Priscilla Y. Chapa